



To the Honorable Council
City of Norfolk, Virginia

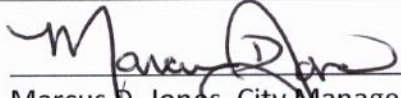
August 25, 2015

From: George M. Homewood, AICP, CFM, Planning Director

Subject: **Special exception for the operation of an entertainment establishment with alcoholic beverages and for the sale of alcoholic beverages for off-premises consumption at 435 Monticello Avenue, Unit 1– AJ Gators Sports Bar & Grill**

Reviewed: 
Ronald H. Williams, Jr., Deputy City Manager

Ward/Superward: 2/6

Approved: 
Marcus D. Jones, City Manager

Item Number: **R-6**

- I. **Staff Recommendation: Approval.**
- II. **Commission Action:** By a vote of **6 to 0**, the Planning Commission recommends **Approval**.
- III. **Request:** Special exceptions:
 - Entertainment establishment with alcoholic beverages
 - Sale of alcoholic beverages for off-premises consumption
- IV. **Applicant: Alfred Zuhars**
- V. **Description:**
 - Granting this request allows AJ Gators Sports Bar & Grill to relocate from 244 Granby Street to a larger space at 435 Monticello Avenue, Unit 1.
 - The applicant proposes to operate the establishment in the same manner as before, serving alcoholic beverages for both on-premises consumption and off-premises consumption.
 - This special exception for entertainment will expire 18 months following adoption by City Council.
 - The applicant will install sound attenuating and deadening material into the ceiling of all areas of the establishment open to the public, in order to provide sound buffering between the proposed space and above residential units within the building.
 - Units within the building fall under a condominium declaration and condominium bylaws.
 - Some condominium owners believe that the bylaws limit the hours of use for Unit 1.

- Following legal review, staff is unaware of any legal provisions which might prohibit the use proposed in this application by special exception.

	Previous (Bobbywood)	Proposed (AJ Gator's)
Hours of Operation and for the Sale of Alcohol	11:00 a.m. until 2:00 a.m., Seven days a week	11:00 a.m. until 2:00 a.m., Monday through Friday 9:00 a.m. until 2:00 a.m., Saturday and Sunday
Hours of Entertainment	N/A	6:00 p.m. until 11:00 p.m., Sunday through Thursday 6:00 p.m. until 11:00 p.m., Friday and Saturday
Hours for the Sale of Alcohol for Off-Premises Consumption	11:00 a.m. until 2:00 a.m., Seven days a week	11:00 a.m. until 12:00 a.m., Monday through Friday 9:00 a.m. until 12:00 a.m., Saturday and Sunday
Capacity	126 seats indoors 24 seats outdoors 180 total capacity	226 seats indoors 44 seats outdoors 284 total capacity
Entertainment Options	N/A	<ul style="list-style-type: none"> • 3 member live band • Karaoke • Video Games • Pool Tables

Staff point of contact: Christopher Blough at 664-6771, christopher.blough@norfolk.gov

Attachments:

- Staff Report to CPC dated July 23, 2015 with attachments
- Proponents and Opponents
- Ordinance



City of NORFOLK

Planning Commission Public Hearing: July 23, 2015

Executive Secretary: George M. Homewood, AICP, CFM *LMH*

Staff Planner: Chris Blough *CB*

Staff Report	Item No. 9	
Address	435 Monticello Ave, Unit 1	
Applicant	AJ Gators Sports Bar & Grill	
Requests	Special Exceptions	<ul style="list-style-type: none">• Entertainment establishment with alcoholic beverages• Sale of Alcoholic Beverages for Off-Premises Consumption
Property Owner	Welton Property, LLC	
Site Characteristics	Site Area/Space	9,910/4,930
	Zoning	D-3 (Freemason/Granby Conservation and Mixed Use District) HO-D (Downtown Historic Overlay)
	Neighborhood	Downtown
	Character District	Downtown
Surrounding Area	North	D-3: Parking
	East	D-3: Wells Fargo Center
	South	D-3: Montagna, Klein, Camden, L.L.P Personal Injury Attorneys
	West	D-3: Scottie Quixx Bistro & Lounge, Bodega



A. Summary of Request

- This request is to relocate AJ Gators Sports Bar & Grill from 244 Granby Street to a larger space at 435 Monticello Avenue, Unit 1.
- The applicant proposes to operate the establishment in the same manner as before.
- AJ Gators will serve alcoholic beverages for both on-premises consumption and off-premises consumption at this new location.

B. Plan Consistency

The proposed special exception is consistent with *plaNorfolk2030*, which designates this site as downtown.

C. Zoning Analysis

i. General

The site is located in the D-3 and HO-D districts, which permit the proposed uses by special exception.

	Proposed
Hours of Operation and for the Sale of Alcohol	11:00 a.m. until 2:00 a.m., Monday through Friday 9:00 a.m. until 2:00 a.m., Saturday and Sunday
Hours of Entertainment	6:00 p.m. until 11:30 p.m., Sunday through Thursday 6:00 p.m. until 12:30 a.m., Friday and Saturday
Hours for the Sale of Alcohol for Off-Premises Consumption	11:00 a.m. until 12:00 a.m., Monday through Friday 9:00 a.m. until 12:00 a.m., Saturday and Sunday
Capacity	226 seats indoors 44 seats outdoors 284 total capacity
Entertainment Options	<ul style="list-style-type: none">• 3 member live band• Karaoke• Video Games• Pool Tables

Special exception history:

City Council Approval	Applicant	Request
2005	Bobbywood	<ul style="list-style-type: none">• Eating and drinking Establishment• Sale of Alcoholic Beverages for Off-Premises Consumption
Pending	AJ Gators Sports Bar & Grill	<ul style="list-style-type: none">• Entertainment establishment with alcoholic beverages• Sale of Alcoholic Beverages for Off-Premises Consumption

ii. Parking

The site is located within the D-3 zoning district, which does not require off-street parking.

iii. Flood Zone

The property is located in the X Flood Zone, which is a low risk flood zone.

D. Transportation Impacts

- Institute of Transportation Engineers (ITE) figures estimate that this restaurant use will generate 483 additional vehicle trips per day by increasing total indoor seating at this location by 100 seats above currently approved levels.
- Monticello Avenue adjacent to the site is not identified as a severely congested corridor in the current update to regional Hampton Roads Congestion Management analysis.
- The site is near transit services with the Monticello Avenue TIDE light rail station located just to the south and Hampton Roads Transit bus routes 1 (Granby) and 3 (Chesapeake) also operating near to the site.
- No additional trips are forecast related to the proposed addition of off-premises alcohol sales to the proposed entertainment establishment use on the site.

E. Impact on the Environment

- The site at 435 Monticello and the adjacent parking lot at 445 Monticello both provide adequate landscape buffering and meet current zoning ordinance standards.
- There are no additional opportunities for landscaping site improvements.

F. Impact on Surrounding Area/Site

By requiring this use to conform to the conditions listed below, the proposed entertainment establishment should not have a negative effect on the surrounding properties.

G. Payment of Taxes

The owner of the property is current on all real estate taxes.

H. Civic League

The applications were sent to the Downtown Norfolk Civic League and Downtown Norfolk Council on June 10.

I. Communication Outreach/Notification

- Legal notice was posted on the property on June 16.
- Letters were mailed to all property owners within 300 feet of the property, including other property owners at 435 Monticello Avenue, on July 10.
- Legal notification was placed in *The Virginian-Pilot* on July 9 and July 16.

J. Recommendation

Staff recommends that the special exception request be **approved** subject to the conditions shown below:

Conditions – Entertainment Establishment with alcoholic beverages

- (a) The hours of operation for the establishment and for the sale of alcoholic beverages shall be from 11:00 a.m. until 2:00 a.m. Monday through Friday and 9:00 a.m. until 2:00 a.m. Saturday and Sunday. No use of the establishment outside of the hours of operation listed herein shall be permitted.
- (b) The hours of entertainment for the establishment shall be from 6:00 p.m. until 11:30 p.m. Sunday through Thursday and 6:00 p.m. until 12:30 a.m. Friday and Saturday.
- (c) The seating for the establishment shall not exceed 226 seats indoors, 44 seats outdoors, and the total occupant capacity, including employees, shall not exceed 284 people.

- (d) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation or management of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.
- (e) Entertainment shall be limited to karaoke and live bands having no more than 3 members. No other form of entertainment is permitted.
- (f) There shall be no dancing and no dance floor provided.
- (g) The layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B."
- (h) No door to the establishment which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.
- (i) The establishment shall maintain a current, active business license at all times while in operation.
- (j) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (k) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so as to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
- (l) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar or a description printed on the menu.

- (m) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.
- (n) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (o) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (p) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (q) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.
- (r) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.

- (s) The establishment manager shall notify the Commissioner of the Revenue no less than 72 hours prior to the commencement of any event at which a cover charge is to be collected.
- (t) A binder or folder containing documentation relating to the operation of the establishment shall be kept on the premises at all times and shall be produced upon request made by any person. For purposes of this section, the documentation relating to the operation of the establishment shall include copies of the following:
 - (1) This special exception;
 - (2) Any ABC license(s);
 - (3) Any occupancy permit(s);
 - (4) Certifications of all persons who work on the premises as a security guard;
 - (5) All fire code certifications, including alarm and sprinkler inspection records;
 - (6) Any health department permit(s);
 - (7) The emergency action plan required under the Fire Prevention Code;
 - (8) The names, addresses, and phone numbers of all persons who manage or supervise the establishment at any time;
 - (9) The establishment's designated driver program; and
 - (10) The establishment's Security Plan.
- (u) The business shall provide in-house security or retain the services of a licensed security firm to provide security services at a rate of one security guard per 50 guest occupants on the property whenever occupancy shall exceed 199 people or when otherwise required by at least 36 hours prior written notice of the Fire Marshal, Chief of Police, or any designee of either. After 8:00 p. m. each Friday and Saturday as well as during special events, a security supervisor certified either in the Responsible Hospitality Training course offered by the City of Norfolk or in accordance with the requirements of the Virginia Department of Criminal Justice Services shall be present on the property.

- (v) The written security plan submitted to the City as part of the application for this special exception and on file with the Department of Planning shall remain in full force and effect at all times while the establishment is in operation.

Conditions – Sale of Alcoholic Beverages for Off-Premises Consumption

- (a) The hours of operation shall be from 11:00 a.m. until 2:00 a.m. Monday through Friday and 9:00 a.m. until 2:00 a.m. Saturday and Sunday.
- (b) The hours for the sale of alcoholic beverages for off-premises consumption shall be from 11:00 a.m. until 12:00 a.m. Monday through Friday and 9:00 a.m., until 12:00 a.m. Saturday and Sunday.
- (c) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.
- (d) No alcoholic beverages other than those defined as "beer," "wine," "wine cooler," or "low alcohol beverage cooler," as defined by state law, shall be sold.
- (e) No alcoholic beverage having more than 21% alcohol by volume shall be sold.
- (f) No beer shall be sold in any package containing fewer than six (6) bottles or cans, with the exception of those bottled beers which are exclusively produced in refillable containers at least 64 ounces in size. No wine shall be sold in containers less than 375 ml each.

- (g) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to any such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (h) Any requirements, limitations or restrictions imposed by the Virginia ABC Commission or by any provision of Virginia law upon this establishment which are more stringent than the requirements of this Special Exception shall be effective and binding. Any violation of such limitation requirement or restriction imposed by the ABC Commission shall be deemed a violation of this Special Exception. The Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from limitations, requirements of restrictions imposed by the ABC Commission or by State law.
- (i) A copy of this Adult Use Special Exception ordinance and "Exhibit A" (including the floor plan) shall be available on site at all times for inspection, and a notice indicating that this Adult Use Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.
- (j) At all times, all temporary window signage must comply with the applicable regulations of Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), entitled "Signs."

Attachments:

Location Map
Zoning Map
1000' radii map of similar ABC establishments
Application
Notice to the Downtown Norfolk Civic League
Notice to the Downtown Norfolk Council
Letter of No Opposition from the Downtown Norfolk Civic League
Letters of Opposition From Welton Lofts

Proponents and Opponents

Proponents

Al Zuhars (Applicant)
493 Goodspeed Road
Virginia Beach, VA 23451

Patrick "Pat" Finn
1032 Commodore Drive
Virginia Beach, VA 23454

Chris Malendoski
526 Boissevain Avenue
Norfolk, VA 23507

Opponents

Leslie Milligan
435 Monticello Avenue #500B
Norfolk, VA 23510

Jim Gray
435 Monticello Avenue Unit #400D
Norfolk, VA 23510

Timothy Frazier
435 Monticello Avenue Unit #200C
Norfolk, VA 23510

Kathryn Place
435 Monticello Avenue #200B
Norfolk, VA 23510

Joseph Place
435 Monticello Avenue #200B
Norfolk, VA 23510

Warren Low
401 Maycox Avenue
Norfolk, VA 23505

Mandy Plante
435 Monticello Avenue Unit #300C
Norfolk, VA 23510

07/24/2015

Form and Correctness Approved:

By

Office of the City Attorney

Contents Approved:

By

DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE OPERATION OF AN ENTERTAINMENT ESTABLISHMENT KNOWN AS "AJ GATOR'S SPORTS BAR AND GRILL" ON PROPERTY LOCATED AT 435 MONTICELLO AVENUE, UNIT 1.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to Wards Corner Sports Bar, Inc. authorizing the operation of an entertainment establishment named "AJ Gator's Sports Bar and Grill" on property located at 435 Monticello Avenue, unit 1. The property which is the subject of this Special Exception is more fully described as follows:

Property fronting 131 feet, more or less, along the western line of Monticello Avenue, beginning 82 feet, more or less, from the southern line of West Charlotte Street and running southwardly; property also fronts 131 feet, more or less, along the eastern line of Websters Court; premises numbered 435 Monticello Avenue, unit 1.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours of operation for the establishment and for the sale of alcoholic beverages for on-premises consumption shall be limited to 11:00 a.m. until 2:00 a.m. the following morning Monday through Friday and 9:00 a.m. until 2:00 a.m. the following morning on Saturday and Sunday. No use of the facility outside of the hours of operation listed herein shall be permitted.
- (b) The hours of operation for entertainment shall be limited to 6:00 p.m. until 11:00, seven days per week. No entertainment outside the hours of operation listed herein shall be permitted.

- (c) In order to reduce the impact of noise on the residential properties located in the same building on the floors above, sound attenuating and deadening material shall be installed in the ceiling of all areas of the establishment that are open to the public.
- (d) The seating for the establishment shall not exceed 226 seats indoors, 44 seats outdoors, and the total occupant capacity, including employees, shall not exceed 284 people.
- (e) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation or management of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.
- (f) Entertainment shall be limited to live bands having no more than three (3) members. No other form of entertainment is permitted.
- (g) There shall be no dancing and no dance floor.
- (h) The layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B".
- (i) No door to the establishment which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.
- (j) The establishment shall maintain a current, active business license at all times while in operation.
- (k) The establishment shall remain current on all food

and beverages taxes and business personal property taxes which may become due while it is in operation.

- (l) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.
- (m) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the Special Exception so as to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
- (n) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar or a description printed on the menu.
- (o) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.
- (p) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

- (q) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (r) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (s) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.
- (t) In addition to the ABC manager or supervisor, the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.
- (u) The establishment manager shall notify the Commissioner of the Revenue no less than 72 hours prior to the commencement of any event at which a cover charge is to be collected.
- (v) A binder or folder containing documentation relating to the operation of the establishment shall be kept on the premises at all times and shall be produced upon request made by any person. For purposes of this section, the documentation relating to the operation of the establishment shall include copies of the following:
 - (1) This Special Exception;

- (2) Any ABC license(s);
 - (3) Any occupancy permit(s);
 - (4) Certifications of all persons who work on the premises as a security guard;
 - (5) All fire code certifications, including alarm and sprinkler inspection records;
 - (6) Any health department permits;
 - (7) The emergency action plan required under the Fire Prevention Code;
 - (8) The names, addresses, and phone numbers of all persons who manage or supervise the establishment at any time;
 - (9) The establishment's designated driver program; and
 - (10) The establishment's Security Plan.
- (w) The business shall provide in-house security or retain the services of a licensed security firm to provide security services at a rate of one security guard per 50 guest occupants on the property whenever occupancy shall exceed 200 people or when otherwise required by at least 36 hours prior written notice of the Fire Marshall, Chief of Police, or any designee of either. After 8:00 p. m. each Friday and Saturday as well as during special events, a security supervisor certified either in the Responsible Hospitality Training course offered by the City of Norfolk or in accordance with the requirements of the Virginia Department of Criminal Justice Services shall be present on the property.
- (x) The written security plan submitted to the City as part of the application for this Special Exception and on file with the Department of Planning shall remain in full force and effect at all times while the establishment is in operation.

- (y) This special exception shall automatically expire eighteen months from the effective date of this ordinance. Prior to the expiration date, but no sooner than six months from the effective date of this ordinance, the property owner or manager may begin the application process for a new special exception.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted general plan and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;

- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That the Special Exception granted hereby amends the previously granted special exceptions permitting operation of an Eating and Drinking Establishment on this property, adopted on September 28, 2004 (Ordinance No. 41,585) and November 15, 2005 (Ordinance No. 42,084), and all provisions and conditions previously approved are entirely superseded by the terms of this Special Exception

Section 5:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENTS:

Exhibit A (4 pages)
Exhibit B (1 pages)



EXHIBIT "A"
Description of Operations
Entertainment Establishment
(Please Print)

Date 6-2-15 WARDS CORNER Sports Bar, Inc
Trade name of business A.J. Grooms Sports Bar & Grill
Address of business 435 MONTICELLO AVE NORFOLK 23510
Name(s) of business owner(s)* ALFRED W. ZUBARS
Name(s) of property owner(s)* JEFFREY A. SHARON
Name(s) of business manager(s)/operator(s) MELISSA McIDERMOTT, PAUL T. DOO, AL ZUBARS
JEFF SHARON
Daytime telephone number (757) 759-5207

*If business or property owner is a partnership, all partners must be listed.

*If business or property owner is an LLC or Corporation, all principals must be listed.

1. Proposed Hours of Operation:

<u>Facility</u>	<u>Alcoholic Beverage Sales and Entertainment</u>
Weekday From <u>11:00 am</u> To <u>2:00 am</u>	Weekday From _____ To _____
Friday From <u>11:00 am</u> To <u>2:00 am</u>	Friday From <u>SAME</u> To _____
Saturday From <u>9:00 am</u> To <u>2:00 am</u>	Saturday From _____ To _____
Sunday From <u>9:00 am</u> To <u>2:00 am</u>	Sunday From _____ To _____

2. Type of ABC license applied for (check all applicable boxes):

☒ On-Premises ☒ Off-Premises (second application required)

3. Type of alcoholic beverage applied for:

☒ Beer ☒ Wine ☒ Mixed Beverage

Exhibit A – Page 2
Entertainment Establishment

4. Will video games, pool tables, game boards or other types of games be provided?
☒ Yes (If more than 4, additional application required) ☐ No

4a. If yes, please describe type and number of each game to be provided:

2 - VIDEO GAMES
2 - POOL TABLES

5. Will patrons ever be charged to enter the establishment?
☒ Yes ☐ No

5a. If yes, why:

SPECIAL EVENTS

5b. Which days of the week will there be a cover charge (circle all applicable days):

Monday Tuesday Wednesday Thursday Friday
Saturday Sunday

6. Will the facility or a portion of the facility be available for private parties?
☒ Yes ☐ No

6a. If yes, explain:

Certain Portion (Office, Restaurant etc)

7. Will a third party (promoter) be permitted to lease, let or use the establishment?
☐ Yes ☒ No

7a. If yes, explain:

8. Will there ever be a minimum age limit?
☐ Yes ☒ No

Exhibit A – Page 3
Entertainment Establishment

9. Additional comments/description/operational characteristics or prior experience:

13 years in Norfolk, 0 issues

Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility


Signature of Applicant

**Exhibit A – Floor Plan(s) Worksheet
Entertainment Establishment**

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
 - Tables/seats
 - Restroom facilities
 - Bar
 - Ingress and egress
 - Standing room
 - Disc Jockey/Band/Entertainment area)
 - Outdoor seating
 - Total maximum capacity (including employees)

1. Total capacity

a. Indoor

Number of seats (not including bar seats)

Number of bar seats

Standing room

200
26 15 30

b. Outdoor

Number of seats

44

c. Number of employees

14

Total Occupancy

(Indoor/Outdoor seats, standing room and employees) = 284

2. Entertainment

List ANY type of entertainment proposed other than a 3 member live band karaoke, comedian, or poetry reading.

3. Will a dance floor be provided?

☐ Yes ☒ No

3a. If yes,

Square footage of establishment _____

Square footage of dance floor _____

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

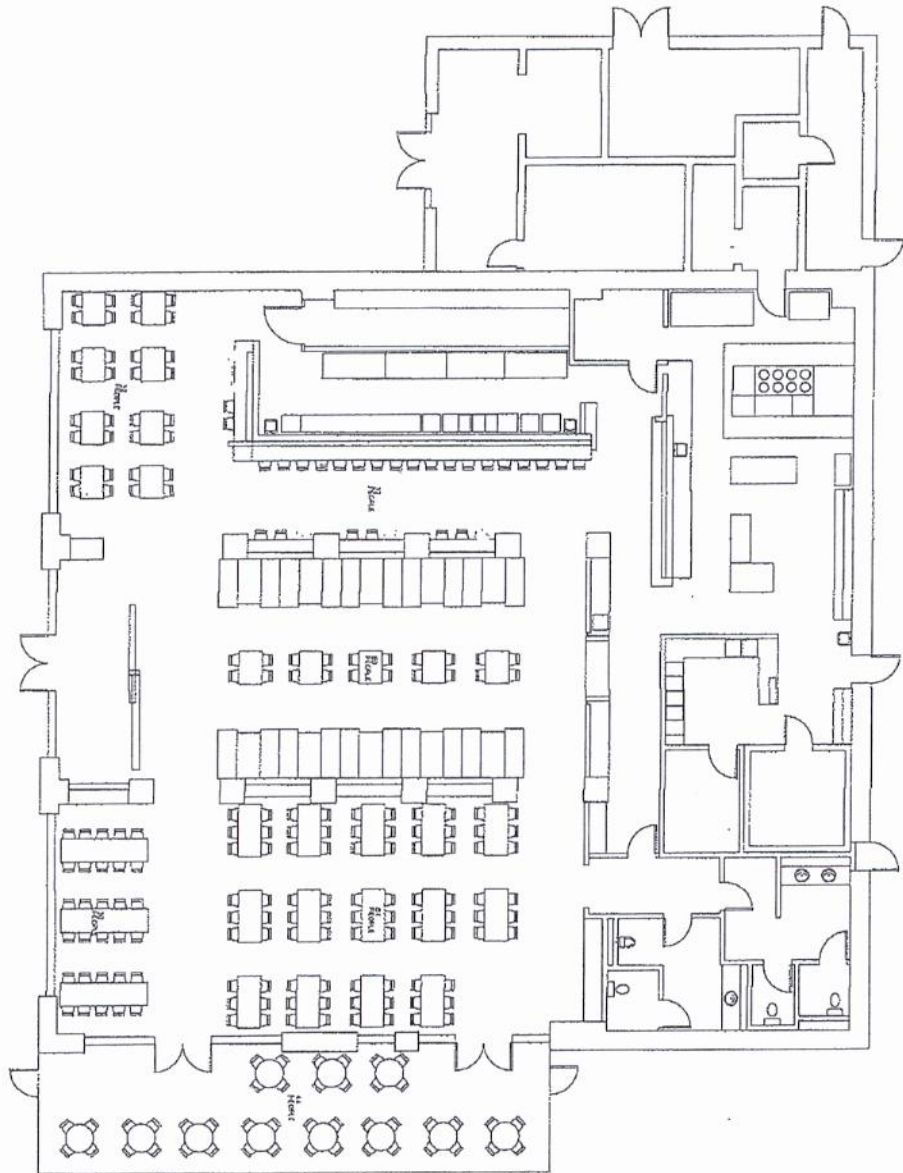
DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

Exhibit B




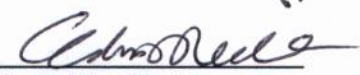
BUILDOUT

Client: HORTON, VA	Project: TENANT SPACE LAYOUT
Design: SULLIVAN	Drawn: TJ. HUNTER
Scale: 1/8" = 1'-0"	Notes: NONE
Date: 7/23/2013	Sheet: A-1

LAYOUT PREPARED BY
LA SULLIVAN
816 OLD BRIDGE LANE
CHESAPEAKE, VA 23320
757-436-4330

07/21/2015

Form and Correctness Approved: 

By 
Office of the City Attorney

Contents Approved: 

By 
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION AT AN ESTABLISHMENT KNOWN AS "AJ GATOR'S SPORTS BAR AND GRILL" ON PROPERTY LOCATED AT 435 MONTICELLO AVENUE, UNIT 1.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to Wards Corner Sports Bar, Inc. authorizing the sale of beer and wine for off-premises consumption at an establishment known as "AJ Gator's Sports Bar and Grill" on property located at 435 Monticello Avenue, unit 1. The property which is the subject of this Special Exception is more fully described as follows:

Property fronting 131 feet, more or less, along the western line of Monticello Avenue, beginning 82 feet, more or less, from the southern line of West Charlotte Street and running southwardly; property also fronts 131 feet, more or less, along the eastern line of Websters Court; premises numbered 435 Monticello Avenue, unit 1.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours of operation for the sale of alcoholic beverages for off-premises consumption shall be limited to 11:00 a.m. until 12:00 midnight Monday through Friday and from 9:00 a.m. until 12:00 midnight on Saturday and Sunday.
- (b) This special exception shall terminate in the event of a change in ownership of the facility and may be revoked in the event of a change in the operation of the facility as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the facility shall be

effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.

- (c) No alcoholic beverages other than those defined by state law as "beer," "wine," "wine cooler," or "low alcohol beverage cooler," shall be sold.
- (d) No alcoholic beverage having more than 21% alcohol by volume shall be sold.
- (e) No beer shall be sold in any package containing fewer than six (6) bottles or cans with the exception of refillable containers of at least 64 oz. capacity. No wine shall be sold in containers less than 375 ml each.
- (f) The facility shall maintain a current, active business license at all times while in operation.
- (g) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," and labeled, "Off-Premise Sale of Alcoholic Beverage" attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to any such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (h) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.

- (i) A copy of this Special Exception ordinance and "Exhibit A" shall be available on site at all times for inspection, and a notice indicating that this Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.
- (j) At all times, all temporary window signage must comply with the applicable regulations of Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992, entitled "Signs."

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted general plan and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- (e) The proposed use and development will be served

adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;

- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That the Special Exception granted hereby amends the previously granted special exception permitting the sale of alcoholic beverages for off-premises consumption on this property, adopted on November 15, 2005 (Ordinance No. 42,085), and all provisions and conditions previously approved are entirely superseded by the terms of this Special Exception

Section 5:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT:
Exhibit A (2 pages)



EXHIBIT "A"
Description of Operations
Off-Premises Sale of Alcoholic Beverage

Date of Application: 6/2/15

Name of business: Waters Beach Sports Bar, Inc. T/A AIGATERS

Address of business: 435 MONTICELLO AVE, NORFOLK 23510

Name(s) of business owner(s)*: ALFRED W. ZUKARS

Name(s) of property owner(s)*: JEFFREY ALLEN SHARON

Name(s) of business manager(s)/operator(s): MELISSA MCDONELL, TOM TORO, AL ZUKARS

Daytime telephone number (757): 739-5907

*If business or property owner is partnership, all partners must be listed.

*If business or property owner is an LLC or Corporation, all principals must be listed.

1. Proposed Hours of Operation:

Facility

Weekday From 11:00 am To 2:00 am

Friday From 11:00 am To 2:00 am

Saturday From 9:00 am To 2:00 am

Sunday From 9:00 am To 2:00 am

Alcoholic Beverage Sales

Weekday From 11:00 am To 12:00 mid.

Friday From 11:00 am To 12:00 mid.

Saturday From 9:00 am To 12:00 mid.

Sunday From 9:00 am To 12:00 mid.

2. Type of alcoholic beverage applied for:

☒ Beer ☐ Wine ☐ Mixed Beverage

3. Alcoholic beverages to be sold:

☐ Room temperature ☒ Refrigerated

DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

Norfolk, Virginia 23510

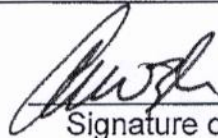
Telephone (757) 664-4752 Fax (757) 441-1569

(Revised January, 2015)

Exhibit A – Page 2
ABC-Off

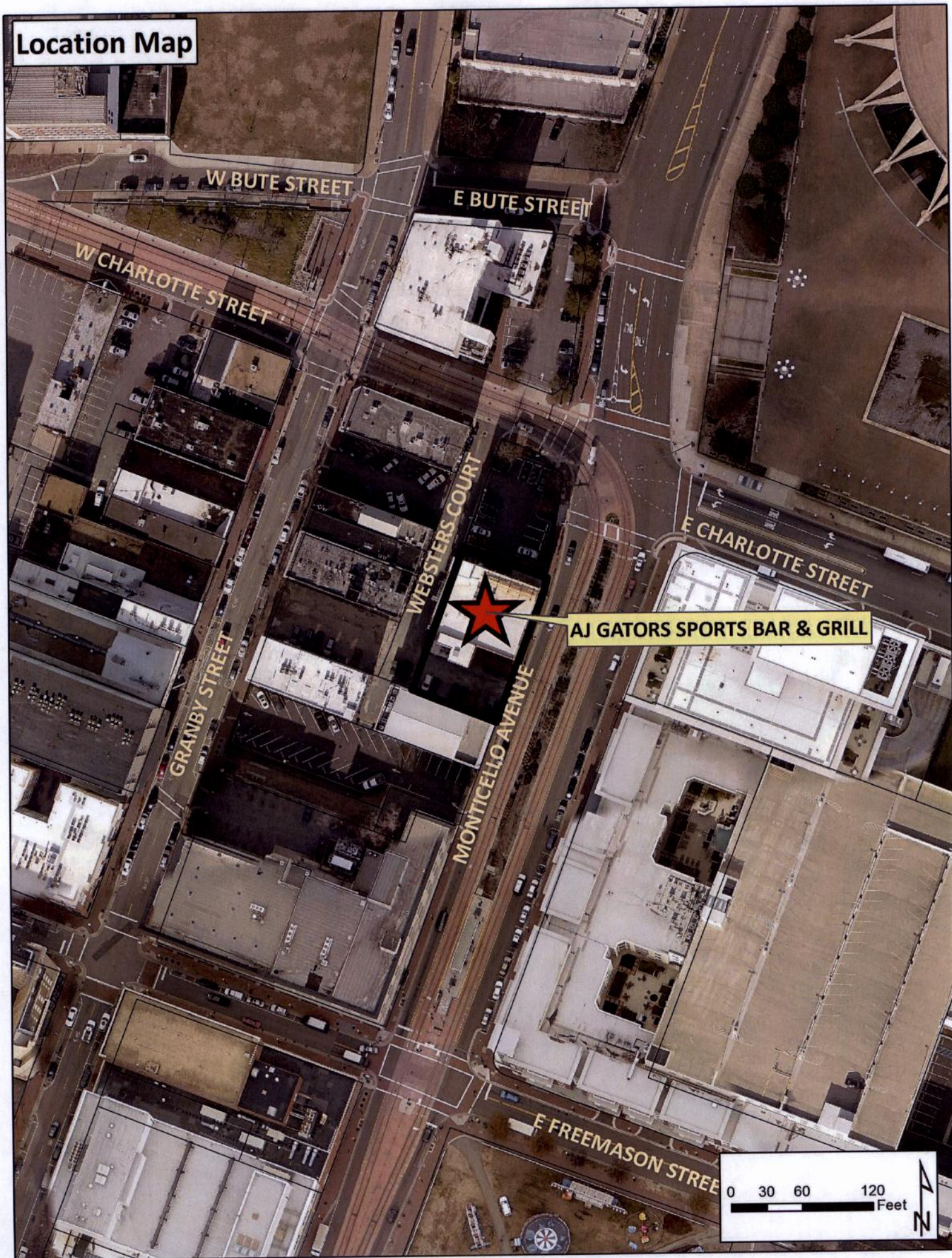
4. As a general rule, the City does not approve selling beer in a single-sized serving container or selling wine in a bottle that is less than 375 milliliters. If you are seeking approval to sell servings that do not meet these criteria, please explain your justification as well as indicate what sizes you would sell:

64 oz Cans



Signature of applicant/owner

Location Map

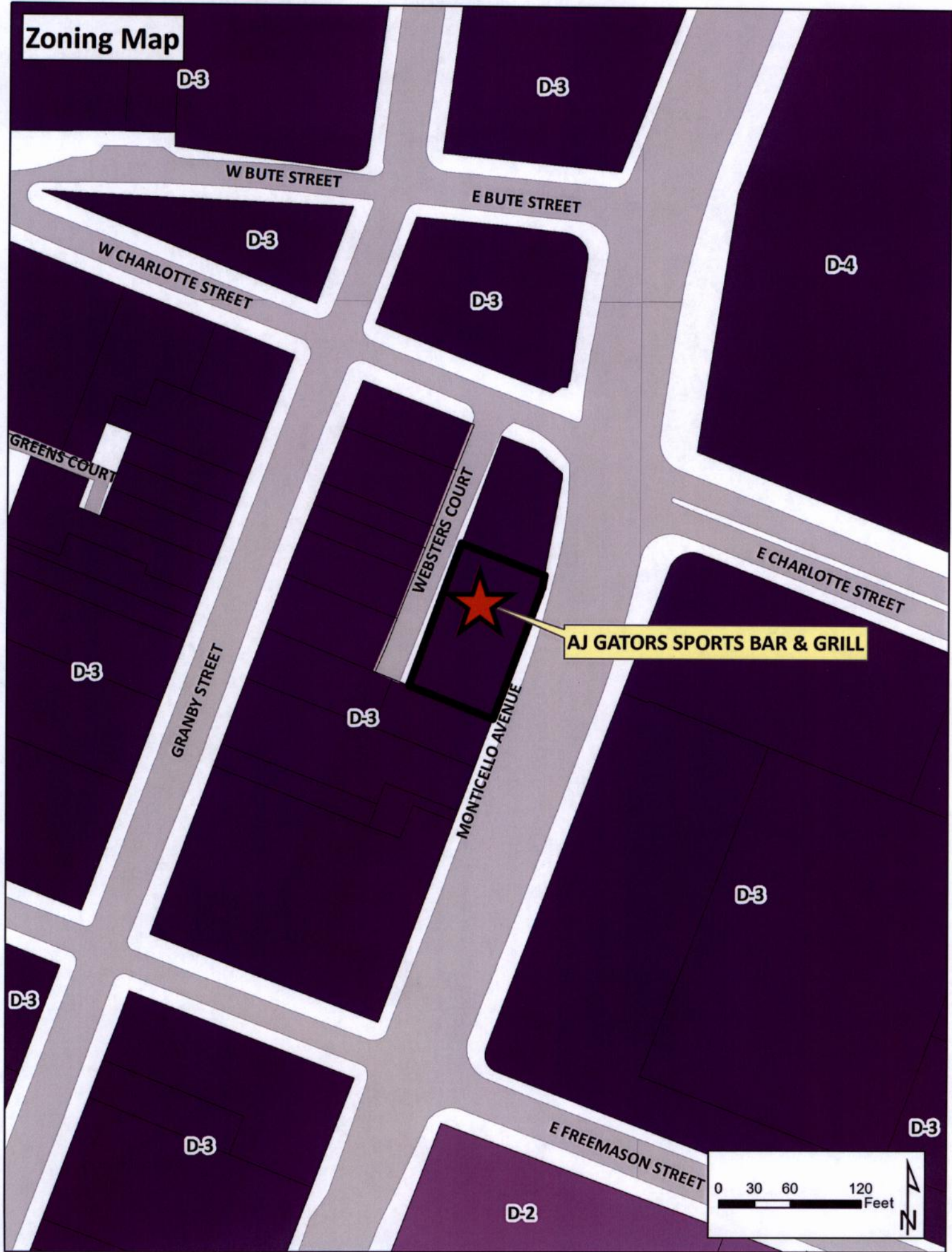


AJ GATORS SPORTS BAR & GRILL

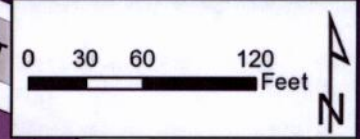
0 30 60 120 Feet



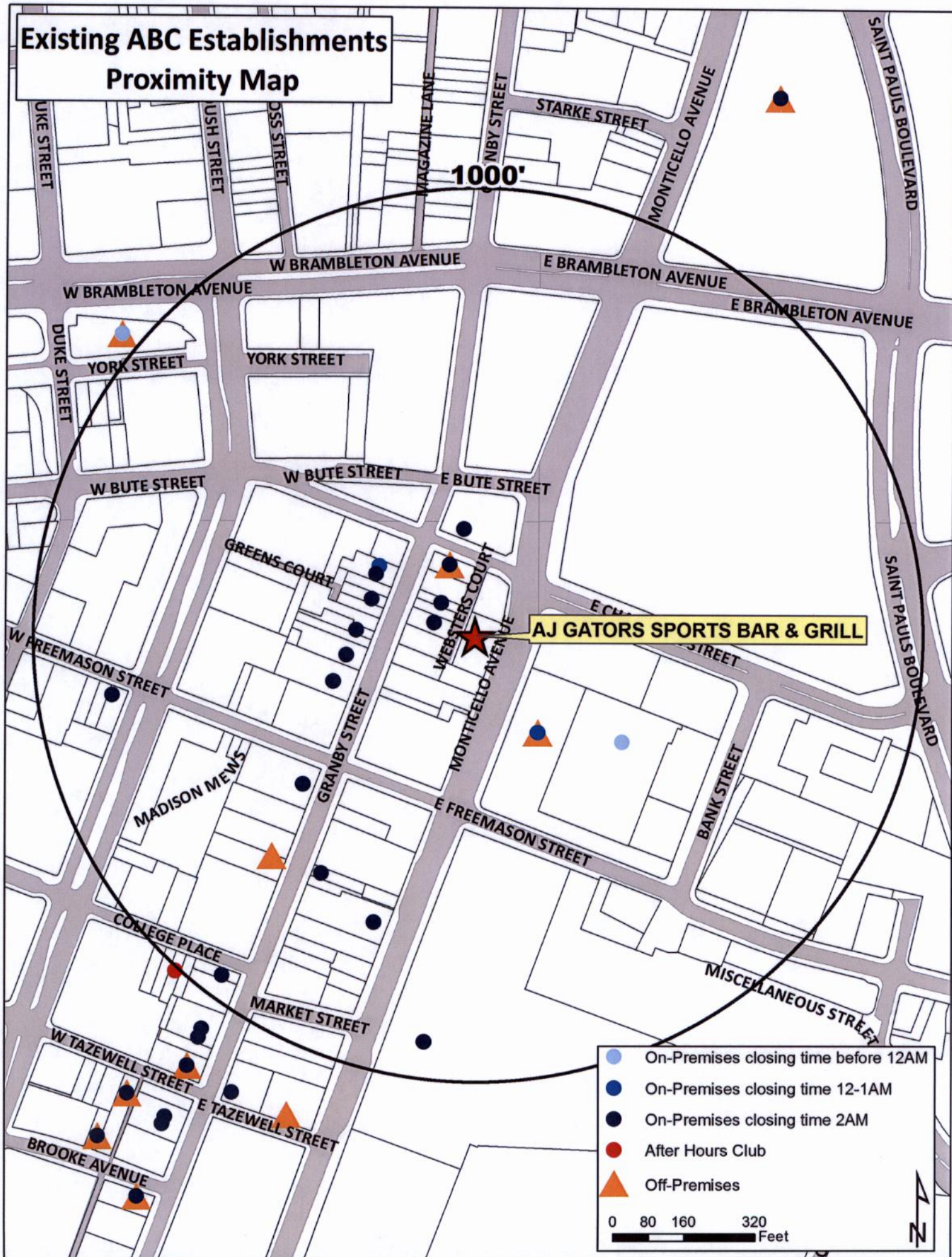
Zoning Map



AJ GATORS SPORTS BAR & GRILL



Existing ABC Establishments Proximity Map





APPLICATION
ADULT USE SPECIAL EXCEPTION
ENTERTAINMENT ESTABLISHMENT
(Please Print)

Date 6-2-2015

DESCRIPTION OF PROPERTY

Address 435 MONTICELLO AVE UNIT 1

Existing Use of Property RESTAURANT

Proposed Use FULL SERVICE RESTAURANT

Current Building Square Footage 4927

~~Proposed Building Square Footage~~

Trade Name of Business (If applicable) AJ Gators Sports Bar & Grill

APPLICANT

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

1. Name of applicant: (Last) ZUHARS (First) ALFREDO (MI) W

Mailing address of applicant (Street/P.O. Box): 493 GOODSPEED RD

(City) VA. Beach (State) VA (Zip Code) 23451

Daytime telephone number of applicant (757) 739-5707 Fax (757) 382-0524

E-mail address of applicant: AL ZUHARS @ gmail . com

DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

Application
Entertainment Establishment
Page 2

AUTHORIZED AGENT (if applicable)

(If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)

2. Name of applicant: (Last) Henn (First) Rick (MI) 3

Mailing address of applicant (Street/P.O. Box): 1400 Grafty St

(City) Norfolk (State) VA (Zip Code) 23510

Daytime telephone number of applicant () 615-6905 Fax () _____

E-mail address of applicant: Rick.Henn consulting@gmail.com

PROPERTY OWNER

(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

WELTON PROPERTY LLC

3. Name of property owner: (Last) WRIGHT (First) Bobby (MI) _____

Mailing address of property owner (Street/P.O. box): 273 Grafty St

(City) Norfolk (State) VA (Zip Code) 23510

Daytime telephone number of owner (757) 622-1360 email: BOBBY@THEWRIGHTSITES.COM

CIVIC LEAGUE INFORMATION

Civic League contact: DNC / DNCL

Date(s) contacted: _____

Ward/Super Ward information: _____

DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

REQUIRED ATTACHMENTS


CERTIFICATION

I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

Print name: _____ Sign: _____ / _____ / _____
(Property Owner or Authorized Agent of Signature) (Date)

Print name: ALFRED W. ZOTHARS Sign:  / 6-2-2015
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: Rick Hagan Sign:  / 6-2-15
(Authorized Agent Signature) (Date)

I, EDWARD ALAN JORDAN, A DULY REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS PLAT LABELED AMENDED EXHIBIT B CONDOMINIUM PLAT OF MELTON LOFTS A CONDOMINIUM IS ACCURATE AND COMPLIES WITH SECTION 55-29.50.A OF THE VIRGINIA CONDOMINIUM ACT, AS AMENDED, AND THAT ALL UNITS OR PORTIONS THEREOF DEPICTED THEREON HAVE BEEN SUBSTANTIALLY COMPLETED UNLESS NOTED OTHERWISE.

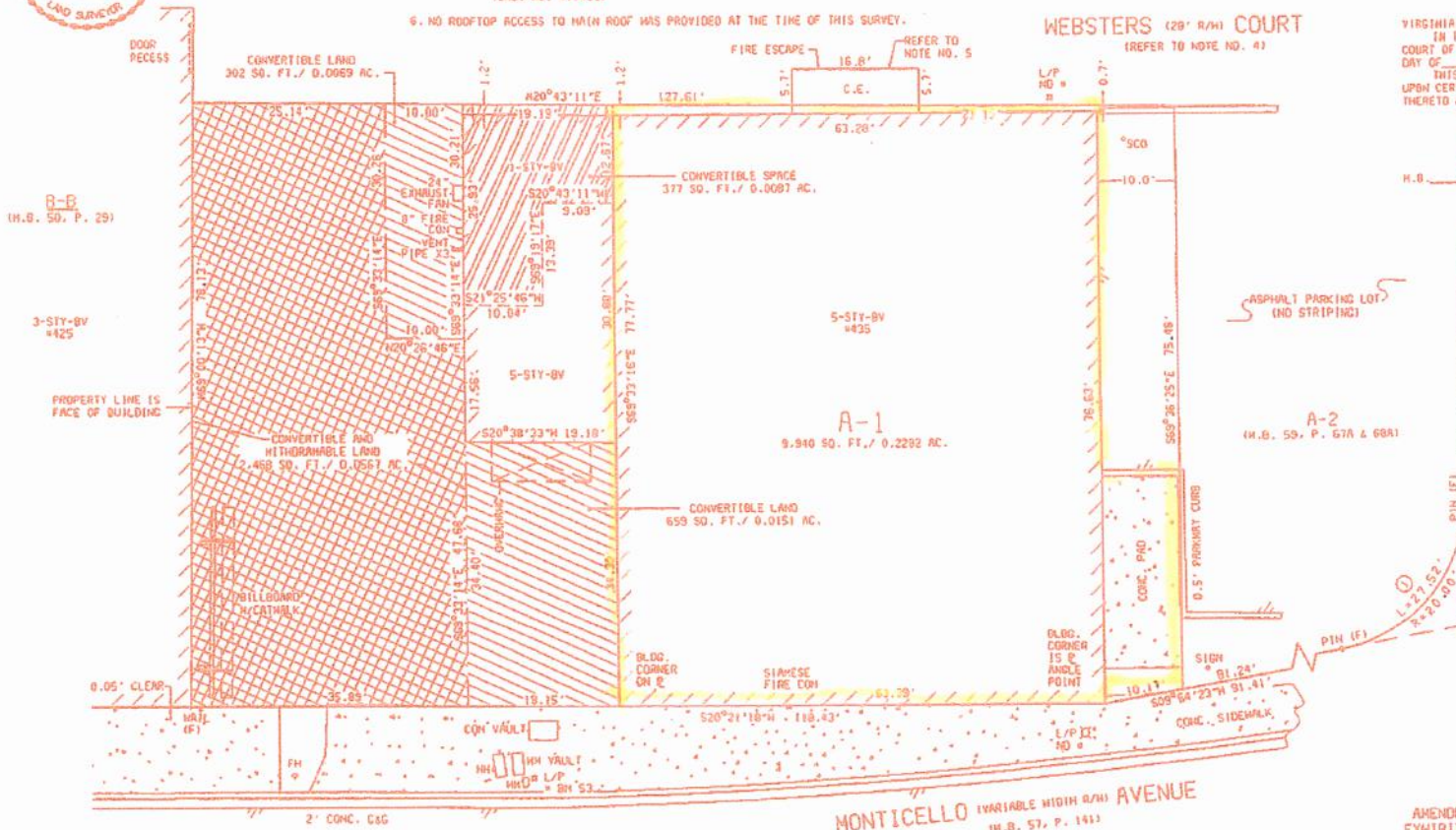
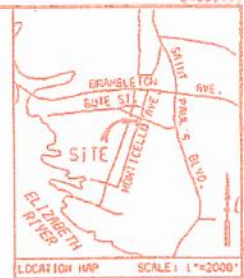
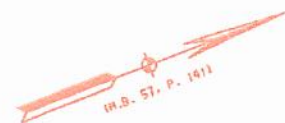
BALDWIN & GREGG, LTD.



GENERAL NOTES

1. ALL BUILDING DIMENSIONS SHOWN HEREON ARE EXTERIOR DIMENSIONS AND ARE IN FEET.
2. LEGAL REFERENCE:
PARCEL A-1, RE-SUBDIVISION PLAT OF PARCEL A AND PARCEL B RE-SUBDIVISION OF 435 MONTICELLO AVENUE AND ADJOINING PARCELS DESCRIBED BY DEEDS NORFOLK VIRGINIA, RECORDED IN MAP BOOK 59 AT PAGES 67A AND 68A IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NORFOLK, VIRGINIA.
3. THE DESIGNATION UNIT AREA IS SUPERSEDED BY THE DECLARATION AND IS NOT INTENDED TO IMPLY THAT THE COMMON WALLS AND OTHER COMMON ELEMENTS ARE UNIT AREAS.
4. NOTE: BY ACT OF NORFOLK CITY COUNCIL ADOPTED 9-26-1922 WEBSTERS COURT WAS MADE 28' WIDE BEGINNING 100' FROM CRANBY STREET (ORD. NO. 2-898)
5. NOTE: BY ACT OF NORFOLK CITY COUNCIL ADOPTED 6-8-2004 AN ENCROACHMENT PERMIT WAS APPROVED FOR AN AREA 17' X 5.5' FOR A REPLACEMENT FIRE ESCAPE (ORD. NO. 41-433)
6. NO ROOFTOP ACCESS TO MAIN ROOF WAS PROVIDED AT THE TIME OF THIS SURVEY.

CURVE TABLE				
NO.	RADIUS	LENGTH	DELTA	CHORD
1	20.00'	27.52'	78°50'55"	16.44'
				25.40'
				S25°32'39"E



LEGEND & ABBREVIATIONS

AC.	ACRE	H.B.	MAP BOOK	CONVERTIBLE LAND
BLOC.	BUILDING	NO.	NUMBER	
BV.	BRICK VENEER	ORD.	ORDINANCE	CONVERTIBLE AND WITHDRAWABLE LAND
C.E.	COMMON ELEMENT	P.	PAGE	
C.G.	CURB & GUTTER	R/W	PROPERTY LINE	CONVERTIBLE SPACE
CON.	CONNECTION	R/O	RIGHT-OF-WAY	
CONC.	CONCRETE	S.D.	SAFETY CLEARANCE	
D.H.	DRILL HOLE	S.F.	SQUARE FEET	
F.	FOUND	STY	STORY	
F.B.	FIELD BOOK	TRANS.	TRANSFORMER	
FH	FIRE HYDRANT	X	TIMES	
L/P	LIGHT POLE	HN	WATER METER	



MONTICELLO (VARIABLE WIDTH R/W) AVENUE
H.B. 57, P. 141

AMENDED
EXHIBIT B
CONDOMINIUM PLAT
OF
MELTON LOFTS
A CONDOMINIUM
NORFOLK, VIRGINIA

SCALE: 1" = 10' JULY 22, 2005



JORDAN: K512495500 PLATS CONDOMINIUM AMENDED EXHIBIT B - AMENDED EXHIBIT B 1/10/2005 4:17PM BASSCALE: 5 R16.2



**APPLICATION
ADULT USE SPECIAL EXCEPTION
ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION**

Date of Application: 6/2/15

DESCRIPTION OF PROPERTY

Property location: (Street Number) 435 (Street Name) MONTICELLO

Existing Use of Property Full Service Restaurant

Current Building Square Footage 4930

Proposed Use Full Service Restaurant

Proposed Building Square Footage 4930

Trade Name of Business (If applicable) AT GROWS Sports Bar & Grill

APPLICANT

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

WARDSCANNER Sports Bar, Inc

1. Name of applicant: (Last) ZUHANS (First) ALFRED (MI) W

Mailing address of applicant (Street/P.O. Box): 493 GOODSPEED RD

(City) Va. Beach (State) VA (Zip Code) 23451

Daytime telephone number of applicant (757) 739-5707 Fax (757) 382-0524

E-mail address of applicant: ALZUHANS@gmail.com

DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised January, 2015)

AUTHORIZED AGENT (if applicable)

(If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)

2. Name of applicant: (Last) Hester (First) Rick (MI) 2

Mailing address of applicant (Street/P.O. Box): 1400 Gange, St Unit 407

(City) NORFOLK (State) VA (Zip Code) 23510

Daytime telephone number of applicant () 615-6905 Fax () _____

E-mail address of applicant: _____

PROPERTY OWNER

(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

3. Name of property owner: (Last) WRIGHT (First) BOBBY (MI) _____

Mailing address of property owner (Street/P.O. box): 273 Gumbey St

(City) Norfolk (State) VA (Zip Code) 23510

Daytime telephone number of owner (757) 622-1360 email: BOBBY@THEWRIGHTSITES.COM

CIVIC LEAGUE INFORMATION

Civic League contact: DNC / DNCL

Date(s) contacted: _____

Ward/Super Ward information: _____

Blough, Christopher

From: Kevin R. Murphy <krmurphy@verizon.net>
Sent: Monday, July 20, 2015 4:43 PM
To: Blough, Christopher
Subject: RE: AJ Gators Application - 435 Monticello Avenue

Hi Chris,

The DNCL has no objections to the application.

Thanks,

Kevin

From: Blough, Christopher [<mailto:Christopher.Blough@norfolk.gov>]
Sent: Monday, July 20, 2015 4:25 PM
To: 'krmurphy@verizon.net'; 'dncl@welovenorfolk.org'
Cc: Pollock, Susan
Subject: AJ Gators Application - 435 Monticello Avenue

Mr. Murphy,

I was wondering if the DNCL has had an opportunity to review the AJ Gators applications for 435 Monticello Avenue. Please let me know if you do have any feedback. Otherwise, the item is still scheduled for this Thursday's July 23 public hearing.

Thank you,

Chris Blough
Planner I
City of Norfolk
Department of City Planning
[757.664.6771](tel:757.664.6771)

Blough, Christopher

From: Pollock, Susan
Sent: Friday, July 17, 2015 4:14 PM
To: Whitney, Chris; Blough, Christopher; Melita, Adam
Subject: FW: Community concerns regarding AJ Gators
Attachments: Welton Lofts - Commercial Unit Resolution.pdf

All,
Below are the concerns of the condo owners and attached are the revised Condo By-Laws.

Chris, please make sure this gets into the CPC dropbox.

Susan Pollock
Principal Planner, Land Use Services
Phone: (757) 664-4765
Fax: (757) 441-1569

Department of Planning and Community Development
810 Union Street, Room 508
Norfolk, Virginia 23510

From: mary Caroniti [<mailto:formulamary@yahoo.com>]
Sent: Monday, July 13, 2015 7:00 PM
To: Pollock, Susan
Cc: Chris O'Hare; James Gray; Leslie Milligan
Subject: Community concerns regarding AJ Gators

Good afternoon Ms. Pollock,

Thank you for meeting with my neighbor and I last Friday. Per our discussion, here are the concerns shared by those of us living in Welton Lofts. I have also enclosed a copy of our condominium bylaws as they relate to use of the commercial space.

AJ Gators as a business is not compatible with a residential space due to the nature of the establishment and its hours of operation. As representatives of AJ Gators directly expressed, they intend to operate until 2 am. They are also pursuing outdoor seating and are applying for off site ABC privileges with the intent of serving alcohol "to go." Patrons of AJ Gators are likely to congregate outside the building to smoke and, most assuredly, talk. This will create excessive noise unfit for a residential area and will continue late into the night. Welton Lofts as a residence is particularly vulnerable to the nuisance of a sports bar as those living in the building are directly above the commercial space with absolutely no buffer to minimize the noise and smoke a sports bar invariably creates. This nuisance will not only have a negative impact on the lives of those living in Welton Lofts, but is additionally expected to adversely effect Welton Lofts property values (estimates from realtors are a decrease in value between 10-15%). A decrease in the values of these high end lofts will, in turn, have a negative impact on downtown real estate as a whole.

AJ Gators has expressed their hours of operation are non negotiable. They were made aware of the condominium association rules restricting business hours to 11 pm and limiting noise but were told

those rules "are not enforced." The lack of enforcement the unit owner / manager may be referring to is more accurately a lack of opportunity to enforce as the commercial unit has not been occupied for over six years. No potential leases or business have been proposed by the management company during that time. Regarding noise / smoke nuisance, the AJ Gators representatives stated that once a customer steps outside of the establishment they are, "no longer our (AJ Gators') problem." This hardly seems a good partnership for Welton Lofts or AJ Gators. Nor it is a necessary partnership for downtown Norfolk as AJ Gators already has a presence in the community, currently in a much more appropriate, free standing space.

If the special exemptions are granted AJ Gators will proceed with plans to move in as per the lease they signed with the unit owner / management company. In that event, Welton Lofts residents will have no choice but to seek an injunction to protect the people living there. Such proceedings will be time consuming and expensive for both parties.

I thank you again for your time and consideration. Please feel free to contact me with any questions or if additional information is needed.

Sincerely,
Mary Caroniti Hansen
Welton Lofts Condominium Association Secretary
email: mary.c.caroniti.mil@mail.mil or formulamary@yahoo.com
cell: 941-504-6076

Blough, Christopher

From: Danielle H <ldanielle01@yahoo.com>
Sent: Tuesday, July 21, 2015 8:35 PM
To: Pollock, Susan
Cc: Blough, Christopher
Subject: Concerns with AJ Gators occupying 435 Monticello Ave

Hello,

I am writing you today in regards to the AJ Gators that has applied for a special exemptions license at 435 Monticello Ave. As a tenant of the Welton Lofts for the last 3 years, I would love to see a business occupy this space. I am however, very concerned and opposed to a sports bar moving into this space. As most AJ Gators in the area are known for having intoxicated patrons regularly, I am concerned about possible fights in and around the building, trash & cigarettes littering the grounds, the loud noise, and mostly my safety. Like several other residents of Welton Lofts, I myself am a single female who owns a dog. There are many days I do not get home from work until late in the evening, which is when I take my dog out. I am worried about my safety, as well as other residents, with intoxicated patrons around our building. I am well aware of the intoxicated patrons walking on Granby Street late at night, and therefore I do not walk my dog over there. With AJ Gators being at the bottom level of my building, I would not be able to avoid it. Another issue I am extremely opposed to is the gated parking lot being taken away from the residents of Welton Lofts. Well known to everyone, parking in downtown Norfolk is an issue. One of the main reasons I chose this building to live in, as opposed to others, was because I had a designated parking spot. Once again, as a single female I absolutely do not feel safe parking far away from home or in the parking garages. There have been times in the past, I have been harassed in parking garages nearby and also walking home alone from dinner. The gravel side lot on our building is not large enough for all residents to park in, and is also on a first come, first served basis. As I stated before, many days I do not get home from work until late in the evening, and all the spots in the gravel lot are taken by then. Once again, I would love to see a family friendly/ fine dining restaurant occupy the empty space, just not a sports bar or nightclub. Please take my concerns into consideration before approving AJ Gators to occupy this space serving alcohol and possibly having live music/entertainment.

Thank you for you time,

Danielle Hoggard

757-235-0644
[Ldanielle01@yahoo.com](mailto:ldanielle01@yahoo.com)

Blough, Christopher

From: Leslie Milligan <leslieamilligan@yahoo.com>
Sent: Sunday, July 19, 2015 4:35 PM
To: Raustin@odu.edu; smithco2012@verizon.net; mhailes@gatewayventures.net; Nikitahouchins@kw.com; andria.mcclellan@gmail.com; dan.neumann@yahoo.com; MartinJr@decklaw.com
Cc: Blough, Christopher; Pollock, Susan
Subject: Upcoming Hearing for Special Exception for AJ Gators/23 July/435 Monticello

This email concerns the upcoming hearing of the Planning Commission concerning AJ Gators and Special Exemption Permit to operate at 435 Monticello/Welton Lofts.

I am a property owner at 435 Monticello and also serve on the Welton Lofts Homeowner's Association Board as President. We are a 16 unit residential space representing 80% of the equity/floor space in this building, and are located on floors 2-5. The commercial space, represented by Wright Property Management and located on the 1st floor of the building, comprises the remaining 20%. As strong supporters of a vibrant downtown Norfolk, we collectively realize the importance of having this commercial space occupied. We have been anxiously anticipating this for the past 6 years. Our wish is to have a viable and commercially successful business that we can patronize as well as peacefully share the common community footprint. Many concerns have been raised regarding the proposed upcoming tenancy of AJ Gators.

Our HOA Board and Property Management Company (DMS Management) met with AJ Gators ownership concerning their business plan. During the discussion, it became apparent that AJ Gators has every intention of maintaining their current business/plan/operational concept and philosophy that they currently employ on Granby Street (their current upstairs neighbors are not residential) As a part of this philosophy, their business plan dictates frequently staying open to 2 am, as well as employing bands, DJ's, and providing Karaoke as live entertainment. This opening time is consistent with other AJ Gators locations in the Hampton Roads area. The Welton Lofts HOA Bylaws specifically dictate a closing time of 11 pm. They/AJ Gators also are proposing outdoor patio space which is extremely troubling from a noise standpoint—50% of the total residential units share some window space over the proposed patio area, though all units would certainly be affected. The additional proposal of providing alcohol on a "to go" basis is another serious concern, raising unwanted foot traffic and additional noise. Of particular concern regarding the "alcohol to go" and patio space: AJ Gators specifically stated that once a patron steps outside, it is no longer "their problem" and is the sole responsibility of the Norfolk Police Dept.

When Welton Lofts was initially developed by Wright Property Management, the residential spaces were described as "luxury lofts". The previous commercial tenant (Bobbywood) blended in seamlessly with this concept, and enjoyed a harmonious relationship with its residential neighbors, many of whom frequented the establishment on a regular basis. As we have been patiently waiting for re-occupancy of this space, Wright Property Management has consistently reassured us that they would be discerning in selecting a tenant for this location. We as a whole are horribly disappointed.

As stated in our HOA Bylaws, accepted hours of operation are between 7am and 11pm. The AJ Gators ownership have specifically stated that these hours are not in line with their business model and their core marketing and philosophy of operation. They were told by Wright Property Management that hours of operation would not be a problem, and AJ Gators can plan on being open "as business dictates" with total disregard to HOA Bylaws.

I know that other owners have contacted you with concerns regarding declining property values, potential loss of VA funding of mortgages, and overall aesthetics as relates to a potential occupancy by AJ Gators. I share these concerns as well. I have also contacted each and every one of our homeowners regarding this upcoming special exception hearing. Through my communication with everyone, my concern in this matter has grown. Regarding residential owner response, it has been an overwhelming negative; 100% of the owners are against AJ Gators moving into our building. I can provide copies of email correspondence for verification as necessary.

Mixed commercial and residential designs are unique in the challenges to serve both parties effectively. Many cities struggle with managing the noise component; our own downtown Norfolk neighborhood has had to deal with issues concerning this very issue previously (regarding Baxter's and Station 2, both of which involved litigation). AJ Gators has no prior experience in operating an establishment in such close proximity to residential units, and as such does not have a true appreciation for the difficulties that it can present. Additionally, there is no "buffer zone" available that is employed in

many mixed-use environments (for example, commercial office space between residential and commercial enterprise spaces). We are trying at all costs to avoid having a negative relationship with both Wright Property Management and AJ Gators, as well as avoid any potential conflict or litigation. I strongly urge you to deny the request for special exception at this location for AJ Gators.

I plan on attending the hearing this Thursday to express my views based on what has been conveyed to us thus far. I sincerely hope this issue can be resolved in a way that serves everyone's best interests.

Thank you for your time and consideration in this manner. If you require any other information, please do not hesitate to contact me.

Leslie Milligan
Welton Lofts HOA Board President
(504) 400-0632
leslieamilligan@yahoo.com

Blough, Christopher

From: Homewood, George
Sent: Friday, July 17, 2015 5:24 PM
To: Earl P Fraley Jr. (fraleyearl@aol.com); Martin Thomas Jr; Dan Neumann MD (dr.neumann@cox.net); Matt Hales (mhailes@gatewayventures.net); Andria McClellan (andria.mcclellan@gmail.com); Ramona Austin (RAustin@odu.edu); Houchins, Nikita Newcomb, Leonard; Blough, Christopher; Whitney, Chris
Cc:
Subject: FW: 435 Monticello Ave Commercial Space Special Exception Permit
Attachments: AJ_Gators_large.jpg

FYI

George M. Homewood, AICP CFM
Director
Department of City Planning
City of Norfolk
810 Union Street, Suite 500
Norfolk, VA 23510
757-664-4770 (O)
757-620-3630 (M)



From: Martin Thomas, Jr. [mailto:MartinJr@Decklaw.com]
Sent: Friday, July 17, 2015 9:33 AM
To: Homewood, George
Subject: FW: 435 Monticello Ave Commercial Space Special Exception Permit

From: Paige Johnson [mailto:pjohnson@twmortgage.com]
Sent: July 16, 2015 8:21 PM
To: Martin Thomas, Jr. <MartinJr@Decklaw.com>
Subject: 435 Monticello Ave Commercial Space Special Exception Permit

Good evening Mr. Martin,

I understand that you are a member of the Norfolk City Planning Commission & therefore make recommendations to the City as to whether or not a request is consistent with plans or policies of the City of Norfolk. It is for this reason that I am contacting you.

I am the owner & resident of Unit 400A in the Welton Lofts building at 435 Monticello Avenue in Norfolk, VA. I am writing today concerning a special exception permit application submitted on behalf of AJ Gators for the Commercial Space in this building. I know this letter is long & probably most of the information you are already well aware of, but I truly appreciate your time in reading it and taking it into consideration.

Based on the requirements outlined in Municipal Code 25-7 (all sections), as well as Municipal Code 25-9.8

https://www.municode.com/library/va/norfolk/codes/code_of_ordinances?nodeId=COCI_APXAZOOR_ARTVA_MSPAP_CH25SPEX_25-1PUST)

I believe AJ Gators, the intended tenant of the commercial space at 435 Monticello Ave, Norfolk, VA 23510, fails to meet the standards required for approval of a Special Exception Use Permit (SEU). I am therefore requesting that the SEU Permit to AJ Gators be denied.

My first objection to approval of the SEU permit is based on the current zoning & district overlays of the Welton Lofts building. Welton Lofts falls in Zone D3, Downtown District as well as the Overlay District of the Downtown Historic District. (<http://norfolkair.norfolk.gov/norfolkair/Forms/Map.aspx>) This objection falls under Municipal Code 25-7.1.

The Welton Lofts building was formerly a department store warehouse built in 1910 & was restored with this history in mind by the WrightSites & its affiliates. It may not be on the historical society list, but it is a historical building. AJ Gators entire branding & marketing campaign is designed around a loud cartoon alligator holding a beer and a burger as a mascot. Its signage is high-energy, oversized & neon (See attached.) This is neither homogenous with the character of this beautiful historic building, nor is the "proposed use and development in harmony with the objectives and policies of the adopted general plan and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established." (Municipal Code 25-7.1)

The intent of the creation of the Downtown Historic District Ordinance (Code 11-5.1) is:

"... to assure that new structures and uses within the district will be in keeping with the established character of the Downtown Historic District which is to be preserved and enhanced."

https://www.municode.com/library/va/norfolk/codes/code_of_ordinances?nodeId=COCI_APXAZOOR_ARTIISP_DIRE_CH11OVDI_11-5DOHIOVDI

Approving a SEU Permit for an establishment that is the antithesis of historic charm contradicts the mission statement of both the Downtown District Ordinance as well as the Historic District Overlay.

The argument against my objection this is that there is a Buffalo Wild Wings across the street. Buffalo Wild Wings is separated from & is not included in the Downtown Historical District and there is no Historic District Overlay Ordinance for this property. It does not encroach on the character or personality of the building in which it resides. <http://www.norfolk.gov/DocumentCenter/View/1801>

The other argument to my objection is Baxter's Sports Bar & Scotty Quixx on Granby Street. Although these properties do fall in the Downtown Historical District, both of these are located on Granby Street, which has established itself as the original "Restaurant Row," in this chic urban district. The residences above Scotty Quixx are owned by a company & rented. Scotty Quixx is the main tenant & the tenants are aware of this when they move in. Baxter's does have individually-owned residences above, but they have a separate gated parking & entirely separate entrance. 500 Granby Street is also a much larger building, allowing enough space between the entrance to the bar & the residences attached.

My second protest to the Special Exception is the target audience & market of the planned use of the space and its impact on the residents of the Welton Lofts building itself as well as the surrounding area.

435 Monticello Ave. is a small building. AJ Gators is marketed as a loud & obnoxious sports bar, intentionally. It deliberately has marketed an adult version of Chuckee Cheese with a baseball- hat adorned cartoon alligator in lieu of a cartoon mouse. Its focus, by definition, is a sports & alcohol party. The target market of a sports bar in Downtown Norfolk is a drinking, male, sports fan. A reasonable person can surmise

that the stipulations set for the in the Municipal Code 25-9.5, subsection (b) requiring that any use allowed by a special exception, "shall not be operated or maintained in a loud, obnoxious or offensive manner," will more than likely fail to be met.

The Center for Problem-Oriented Policing (<http://www.popcenter.org/problems/assaultsinbars>), a non-profit designed to help facilitate ways in which police can more effectively address specific crime & disorder problems lists the following information.

"Sports bars foster a "macho" atmosphere and may contribute to customers' sense that aggression is an acceptable part of the social setting. **[31]** Competition outside the bar—for food service, public transportation, walking space, women's attention, and so forth—can similarly trigger violence"

Buffalo Wild Wings has a large outdoor space as well as a large open walkway. Neither of these are close to an entrance for the residences. Baxter's also has an outdoor space & is not close to the residential entrance and there is a large grassy area currently within 30 yards. The Welton Lofts building only has a standard-size sidewalk & the proposed parking lot/ outdoor space. This lot currently can only accommodate 15 cars, which, even if a patio uses several of these for a patio area, the space around them is small.

My third objection is on behalf of the Condo Association itself & the unit owners directly. Many of the bylaws of the established Condo Association will be broken by the current plan for the use of the commercial space, including hours of operation, signage, & aesthetic harmony. Wright Property Management, the Wright Sites & Welton Property, LLC were involved in the development of Welton Lofts.

They were instrumental in the establishment of the Condo Association bylaws and regulations & held a place on the board. Any changes to those were made by a majority vote. Welton Property, LLC has the right to lease this space to whomever they wish. However, they agreed to abide by the bylaws established by the building as a whole. Although, not a city ordinance, Section 25-7.10 of the General standards for special exception uses states that "the proposed use complies with all additional standards imposed on it. Welton Property, LLC & AJ Gators signed this lease with full access to and awareness of the Condo Association bylaws & should be held to them. The other 16 owners of this building have strongly opposed the proposed tenant and Welton Property, LLC has indicated that the only recourse is a very expensive lawsuit and the owner of AJ Gators & Welton, LLC have much deeper pockets.

And finally, the city ordinance that governs the special exception use permits specifically addresses the impact approving such permit may have on property values of the building itself or surrounding properties. (25-7.2 & again in 25-9.8(d)).

The value of ownership in a building diminishes if that ownership does not come with a proportionate vote in the operations and management of said building. If Welton, LLC overrides the vote of the other 80% ownership stake at will, the 80% is no longer as valuable as the 20%.

This may impact the ability for a military service member to get a VA loan for a unit in the building. Although the VA has approved the building, this is a life-time approval & the VA looks to its VA certified appraisers to make certain judgment calls. Just because a property itself is VA approved does not mean a VA loan will necessarily be approved. The VA appraiser is required to note if the non-residential use "impairs the residential character of the property" & must note any hazards that may adversely affect the health & safety of the occupants &/ or impair the customary use & enjoyment of the property by the occupants. "

A VA appraiser can shut down the ability for a VA loan to be allowed regardless of the building's VA approval. <http://portal.hud.gov/hudportal/documents/huddoc?id=26-7c12VALH.pdf>

In addition, the confliction with the bylaws will create a red-flag in underwriting. Eliminating the use of the VA loan will result in a smaller pool of potential buyers, thereby diminishing the marketability and resale value of the property.

In conclusion, I request denial of a Special Exception Permit to AJ Gators for failing to meet the standards & consideration guidelines outlined in the Norfolk Municipal Ordinances regarding special exception use permits,

Sections 25.7 and 25.9, the goal of the General Plan for Norfolk created in 2012, as well as the purpose and intent of the Downtown Historical District Overlay.

I cannot speak for the other owners when I say that I would be thrilled to have a business operating in the available commercial space. I love the urban, mixed-use concept of downtown. The chic design, eclectic feel, local flavor that is growing in this area is exactly why I moved here from Virginia Beach 2 ½ years ago. AJ Gators hardly fits the bill.

Thank you very much for your time & attention to this matter & your service to the City of Norfolk.

Paige Johnson
435 Monticello Ave Unit 400A
Norfolk, VA 23510

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